

Good evening.

My name is Tim Tyler. I've been involved with salmon enhancement for about 12 years now with the Hoy/Scott Watershed Society in Coquitlam although I must stress that I am here on my own and do not speak for the Society tonight.

As you may or may not know, the Coquitlam river has a long history with sockeye, the name "Coquitlam" being the English pronunciation from the original that literally meant 'smelly red fish' in the first nations' language. In 1911/2 a dam was built just downstream from Coquitlam Lake (and still exists today in a more modern form) to provide water for the New Westminster district. It is still an important part of the Lower Mainland's water supply. A tunnel was built from Coquitlam Lake to supply Buntzen Lake with water around that time. Buntzen Lake is a reservoir supplying water, in turn, to one of BC Hydro's oldest generating stations and still operating on Indian Arm. The historic sockeye also still exist behind the dam where they've been imprisoned for over 90 years. About 5 years ago some escaped and, to our everlasting delight, returned to the dam several years later to try to spawn, the first time in almost a century. Typically, this went unheralded in our community. In fact, many Coquitlam residents haven't the foggiest idea that there even *is* a dam at the north end of their river and that they are one of the very few municipalities in the world that controls its own headwaters.

Talks are ongoing with all parties to see how we can return the sockeye to the Coquitlam and its' lake successfully without deleteriously affecting the water district and BC Hydro interests. Typically, a fish ladder for the sockeye was not incorporated into the latest version of the dam. The DFO, as usual, never fought for the ladder and what it means for our sockeye.

I'm here tonight to propose two things:

- 1) that the enforcement and prosecution arm of the DFO be separated from the rest of the organization and that it be given a budget through some arbitrary allotment that would put it out of reach of the federal government's political interference; and
- 2) that this Commission recommend to the federal government that private prosecutions under the Fisheries Act be encouraged and some

legislative formula be found to remove the ability of government, either provincial or federal, to arbitrarily stay or assume said prosecutions.

The DFO is a truly bizarre organization. It is painfully obvious to those of us that have associated with it for any length of time that careerists in that organization survive and, indeed, advance, by not conserving and enhancing fisheries but by encouraging their demise and extinction. They do this by sucking up to politicians that don't care a fig about our native fish but ultimately control their careers. When it's down to industry and jobs vs. fish, these careerists consistently and reliably ensure the fish always lose by failing to fight for them.

You see, sockeye don't vote. If they could we wouldn't be here tonight discussing ways of securing their future. It doesn't take a genius to realize that raising atlantic salmon on the pacific coast in open pens is sheer bloody stupidity. Any 10 year old would know that instinctively. Yet the DFO had to be dragged, kicking and screaming, by Alexandra Morton and the courts into this debate. Do rabbits and Australia ring a bell? Zebra mussels, asian carp and the great lakes? African bees and Brazil? This ain't rocket science!

On the other hand, there are other DFO employees, our Community Advisors, for example, that care passionately about our salmon and try to move heaven and earth to preserve and enhance them with us. I've worked with them for years and couldn't ask for better people to help us whenever we needed it.

In the Coquitlam river, for example, I believe we can prove conclusively to the satisfaction of any court, that deleterious substances, as described in Section 36 of the Act, are regularly being dumped into our river. Despite repeated requests, we cannot get the DFO to prosecute. We cannot get the Provincial Government to prosecute. And if we try to prosecute privately we believe the case, if successful, will either be stayed or taken over and 'forgotten' by the provincial government. I offer as example the private prosecution by Doug Chapman and EcoJustice Canada, formerly Sierra Legal Defence Fund, of the GVRD in August, 2006, for sewage pollution at the

Lions Gate Sewage Treatment Plant. The federal government stayed the charges. There are numerous other examples.

Provincial and federal governments in this country truly are above the law. Through this bizarre circumstance of common law, they can make charges under the Fisheries Act (and the Criminal Code, for that matter) simply disappear. I don't understand why. I don't understand the legal precedent that allows them to do this. And I don't understand why the Charter of Rights and Freedoms doesn't override this peculiar and unjust fact. A citizen, knowing fully that the law of the land is openly being broken, cannot do a thing about it. It leads to disrespect for the law. In fact, I've almost reached the point where I would openly counsel affected parties to take the law into their own hands because they cannot get justice through the court systems if the various levels of government are affected and want the case to go away badly enough.

The reverse is not true, however. Private interests affected by the enforcement of the Fisheries Act, can and frequently do, threaten to sue public parties advocating for fish and habitat. In 2003 just such a situation arose, between VWVulcan Energy of Canada Ltd. and West Coast Environment Law. The issue at the time was coal bed methane drilling.

These are commonly known as SLAPP suits (Strategic Lawsuit Against Public Participation) Threatened parties must, of course, retain counsel - an expensive proposition - and even though the vast majority of these cases never make it to court, the expense on the part of the defendants is considerable enough to scare them off. The courts more often than not do not offer financial sufficient redress to defendants, even when found innocent, nor do they punish the bringers of these nuisance suits. Anti-SLAPP legislation, popular in the United States, was enacted by the Provincial NDP Government in 2001 (Protection of Public Participation Act) but promptly repealed by the Liberal Government that succeeded them later that year.

Private prosecutions wouldn't cost government a penny. Some public embarrassment maybe; maybe even some votes; probably a few jobs and definitely some profit. But it just might save the fish and I think it's worth considering.